

Paragraph 8 of the Office Action asserts that Arai discloses an interior transferring mechanism, and refers to paragraph 52 of Arai for this disclosure. However, even assuming for the sake of argument that this assertion is correct, Arai nowhere describes or suggests that "an evaporation is performed while at least one of the means adapted to move the first, second, and third evaporation sources moves in the film formation chamber," as recited in each of independent claims 1, 13, and 19.

Arai describes manufacturing a light-emitting device by forming a thin film by filling a small molecular organic electroluminescence material into an evaporation cell, and heating the material in an inert gas atmosphere to form a light emitting layer on a substrate (Arai: Abstract). In regards to Fig. 1, Arai discloses a gasification evaporation device that has a "control means 104 for moving the sample stage 103 in the horizontal direction, control means 106 for opening and closing the shutter" (Arai: paragraphs 39, 41). In regards to Fig. 3, Arai discloses a structure of the evaporation chamber (A) 506 that allows the evaporation sources to be switched according to the kind of organic materials to be deposited (Arai: paragraph 51). In particular, a preparatory chamber 508, which stores multiple kinds of evaporation cells, is connected to the evaporation chamber (A) 506 so that its interior transferring mechanism can replace an evaporation cell in 506 with an evaporation cell in 508 (Arai: paragraph 52). Arai also teaches that one or both of the substrate and the evaporation cell are moved during the evaporation (Arai: paragraph 27). Even if one were to assume that the "interior transferring mechanism" is a means adapted to move the first, second, and third evaporation sources, as argued in the Office Action, Arai does not describe or suggest that "an evaporation is performed while at least one of the means adapted to move the first, second, and third evaporation sources moves in the film formation chamber," as recited in independent claims 1, 13, and 19. In particular, Arai does not describe or suggest having the **interior transferring mechanism** move the evaporation cell in the evaporation chamber 506 during the evaporation.

Further, applicants submit that Aoshima, which is cited as showing features of the means adapted to move the first, second, and third evaporation sources (at Figs. 1-2, paragraph 20), does not cure this deficiency. Aoshima discloses a device to provide an organic thin film

forming device for an organic EL display element (Aoshima: Abstract). Aoshima teaches that the crucible 12 is carried to the inside of a vacuum chamber 11 from the container hold room 13 by the transport mechanism 15 **before the membrane formation is started** (Aoshima: Figs. 1-2, paragraph 20). Aoshima also does not teach or suggest that the crucible 12 is moved by the transport mechanism 15 in the vacuum chamber 11 **during the evaporation**. Therefore, applicants submit that neither Arai nor Aoshima, nor any proper combination of the two, discloses or suggests at least this feature.

The Examiner relies on *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) to allege that “duplicating the means adapted to move the evaporation sources and the installation chamber such that individual means adapted to move were provided for each of the evaporation sources in a single chamber or in individual chambers would produce neither a new, nor an unexpected result.” However, the Examiner is using *Harza* as a *per se* rule that duplication of parts is obvious. The examiner does not compare *Harza* with the instant claims and provide an explanation with a legal conclusion of why the present case applies as in *Harza*. In *Ex parte Granneman*, the Board of Patent Appeals and Interferences reversed the rejection of claims under 35 U.S.C. 103 due to an improper reliance upon *Harza* where the Examiner did not establish a *prima facie* case of obviousness (*Ex parte Granneman*, 68 USPQ2d 1219 (Bd. Pat. App. & Int. 2003)). The Board found that while the Examiner relied on *Harza*, as establishing a *per se* rule that duplication of parts is obvious, this was an incorrect statement of the law. Rather, the Federal Circuit had since ruled in *In re Ochiai*, 37 U.S.P.Q.2d 1127, 1133 (Fed. Cir. 1995) that “reliance on *per se* rules of obviousness is legally incorrect and must cease.” Accordingly, the Board ruled the mere fact that the prior art could be modified as proposed by the Examiner to provide the asserted duplication is not sufficient to establish a *prima facie* case of obviousness. Rather, the Examiner must provide an explanation as to why she believed the prior art would have suggested to one of ordinary skill in the art the modification resulting in the suggested duplication. Further, the “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational

underpinning to support the legal conclusion of obviousness,” (see, October 10, 2007 Notice, pp. 75728-57529, quoting The Supreme Court in *KSR* quoting *In re Kahn*¹).

For at least these reasons, applicants ask that the rejection of independent claims 1, 13 and 19, and dependent claims 2, 3, 5, 6, 14, 15, 17, 18, 20, 21, 23, 24, 33, 35 and 36, be withdrawn and these claims be allowed.

35 U.S.C. 103(a) - Claims 7-9, 11, 12 and 34

Regarding the rejection of claims 7-9, 11, 12 and 34 under 35 U.S.C. 103(a) as being unpatentable over Arai, Aoshima, and Konuma, applicants respectfully submit that neither Arai, Aoshima, Konuma, nor any proper combination of the three, discloses or properly suggests that “an evaporation is performed while at least one of the means adapted to move the first, second, and third evaporation sources moves in the film formation chamber,” as recited in independent claim 7.

The Office Action states that because Arai and Aoshima “fail to disclose the apparatus comprising an aligning means that aligns a mask and a substrate” Konuma (at paragraphs 46, 47) can be used in combination with Ari and Aoshima to remedy this deficiency. For the sake of argument, even if Konuma taught this feature, which the applicants do not concede, Konuma, like Arai and Aoshima, does not describe or suggest that “an evaporation is performed while at least one of the means adapted to move the first, second, and third evaporation sources moves in the film formation chamber,” as recited in independent claim 7. Konuma is silent with respect to these recited features. Therefore, applicants submit that neither Arai, Aoshima, Konuma, nor any proper combination of the three, discloses or suggests at least this feature.

For at least these reasons, applicants request reconsideration and withdrawal of the rejection of independent claim 7, and its dependent claims 8, 9, 11, 12 and 34.

Applicants submit that all claims are in condition for allowance

¹ *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006); *KSR*, 550 U.S. at __, 82 USPQ2d at 1396.


Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, objection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicants reserve the right to prosecute the rejected claims in further prosecution of this or related applications.

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Respectfully submitted,

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Dwight U. Thompson
Reg. No. 53,688

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (877) 769-7945